UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

LINN MINING COMPANY

and

Cases 6-CA-29189
6-CA-29228
6-CA-29304

UNITED MINE WORKERS OF
AMERICA, DISTRICT 31, AFL-CIO

LINN MINING COMPANY

and

Case 6-CA-29707

UNITED MINE WORKERS OF AMERICA,
DISTRICT 31, AFL-CIO

and

ARCHIE CORPORATION

Party in Interest

Stephanie E. Brown, Esq., of Pittsburgh,
Pennsylvania, for the General Counsel.

Clement D. Carter, Esq., of Clarksburg,
West Virginia, for the Respondent.

DECISION

Statement of the Case

JAMES L. ROSE, Administrative Law Judge: This matter was tried before me at Clarksburg, West Virginia, on June 8 and 9, 1998, upon the General Counsel's Complaint which alleged that the Respondent breached its bargaining obligations to the Charging Party in violation of Section 8(a)(5) of the National Labor Relations Act, as amended, 29 U.S.C. §151, *et seq.,* laid off an employee in violation of Section 8(a)(3) and engaged in certain conduct violative of Section 8(a)(1).

The Respondent generally denied that it committed any violations of the Act and affirmatively contends the amendment offered at the hearing (that the Respondent made a

unilateral grant of benefits) should be dismissed as untimely, which I treated as being a defense based on Section 10(b) of the Act.

While both counsel indicated they would submit posthearing briefs, none was received from the Respondent. Upon the record as a whole, including my observation of the witnesses and the General Counsel's brief, I hereby make the following findings of fact, conclusions of law and recommended order:

I. JURISDICTION

At the times material, the Respondent was a West Virginia corporation engaged in operating an underground mine at a site at Johnstown, West Virginia, during the course of which business it annually purchased and received directly from points outside the state of West Virginia, goods, products and materials valued in excess of $50,000. The Respondent admits, and I conclude, that it is an employer engaged in interstate commerce within the meaning of Sections 2(2), 2(6) and 2(7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

United Mine Workers of America, District 31(herein the Union), and its parent organization, United Mine Workers of America (herein the UMWA), are admitted to be, and I find are labor organizations within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. The Facts.

The Union was certified as the bargaining representative of the Respondent's production and maintenance employees on June 20, 1994. Although bargaining did not result in a contract, the parties did reach tentative agreement on many terms on August 24, 29 and November 17, 1994. However, at some point thereafter the Union filed a refusal to bargain charge with the Board, which the Respondent agreed to settle. The Regional Director approved the settlement without the participation of the Union. Though his approval was not dated on the copy entered into evidence, the notice posted by the Respondent was signed on May 6, 1996.

Following settlement of the first case, apparently the parties had additional bargaining sessions, with the Respondent submitting its "Fourth Complete Proposal" sometime in the Fall of 1996. According to the testimony of Michael Ayers, international executive board member assigned to the Union, the employees voted to accept this proposal in November 1996.

On January 20, 1997[1], Ayers wrote the Respondent's then attorney, Robert Steptoe, to the effect that the Union would like one more meeting. He did not receive a reply thus he wrote again on June 3. He again received no reply and on July 7, an attorney on the UMWA staff wrote Steptoe stating that the Union would accept, and had executed, the Respondent's Fourth

[1] Hereafter, all dates are in 1997 unless otherwise indicated.

proposal, with the addition of a wage reopener. Attached to this letter was a request for information, should the Respondent not agree to execute the proposal.

Steptoe answered this letter on August 18, stating that the Respondent had received a petition signed by all of the unit employees to the effect they no longer wished to be represented by the Union. Hence Steptoe withdrew recognition.

The unfair labor practices are alleged to have occurred between June 11 and August 18 and on March 1, 1998, when the Respondent subcontracted all the unit work to Archie. These allegations will be treated seriatim as they appear in the Third Amended Consolidated Complaint.

B. Analysis and Concluding Findings.

1. The Alleged Violations of Section 8(a)(1).

a. Threats and Impression of Surveillance by Terry Starsick.

Terry Starsick was alleged to be the Respondent's maintenance foreman and a supervisor within the meaning of Section 2(11) of the Act. The Respondent first answered that he was the "chief mechanic" and subsequently answered admitting that he "had the authority to direct the maintenance crew and affirmatively states that Terry Starsick's supervisory role was limited to the direction of the maintenance crew." While the Respondent's answer is ambiguous, and there is no specific denial of Starsick alleged status as a supervisor, I conclude that it was the Respondent's intent to deny it. To conclude that the Respondent is now bound by its lack of a specific denial would be hypertechnical. Based on the total record, I find that Starsick's status is in issue.

Although Starsick's ending hourly wage was $16.50 per hour, as opposed to $12.50 for most of the bargaining unit, at the time he allegedly threatened employees he was earning $14.50, having been raised to that level effective the week of April 12. Thus his wage, while somewhat higher than the others, does not appear a significant indicator of supervisory status.

Hoy Keith testified that once "me and Terry was having a little beef, and I went and asked Jeff if Terry was boss, and he said, 'Yes, he was the best we had right now.'" "He (Atkinson) said Terry would give me the orders of what to do."

When asked what responsibilities Starsick had, Atkinson testified, "When, so to speak, if a piece of equipment was broke down, and it would require more than one person to work on it, he could say, 'Hoy, you go and fix that hose, and I will fix this one.'"

Such is the totality of the record evidence that Starsick had any authority to direct other employees. This does not suggest that Starsick was more than a leadman. *S.D.I. Operating Partners, L.P., Harding Glass Division,* 321 NLRB 111 (1996). There is nothing in the testimony of either Keith or Atkinson tending to show that Starsick was a rank-and-file employee whose status changed sometime before June 1997.

Starsick voted in the election and his vote was challenged. The challenge was overruled and his vote was counted, along with four others, all of which were in favor of the Union. In addition, Starsick picketed along with other bargaining unit employees.

Since he was found to be a unit employee at the time of the election, and there is no evidence that his status changed in a significant manner, I conclude that his authority was not that of a supervisor within the meaning of Section 2(11) of the Act.

On June 11, and again on June 12, Starsick is alleged to have told Alton "that the Company was after a couple more of us and that I was one of them." While this may constitute an unlawful threat, I conclude that it is not attributable to the Respondent.

On July 28 Starsick said to Keith, "Here is Pee-Wee, are you going to sign that paper for him?" Even if this statement could constitute creation of an impression that employees' union activity was under surveillance, I conclude that the Respondent is not liable.

Though it is possible to conclude, on the facts of record, that Starsick made unlawful threats or created the impression of surveillance, I will recommend dismissal of paragraphs 10 and 12 because Starsick was neither a supervisor nor an agent of the Respondent.

b. Threat by Jeff Atkinson

Arthur (Pee Wee) Alton testified that when the night shift was discontinued on July 21, three of the men were not laid off but were assigned to the day shift, as a result of which he was reassigned to the afternoon shift notwithstanding than one of those reassigned was junior to him. Thus Alton complained to the mine superintendent, Howard Louden. Louden told Alton that things would stay as they were, and he said about the same thing two days later when Alton again complained. Thus Alton told Louden, "Well, I guess I will have to go ahead and start what I intended to do, then."

Later that day Alton was called into Atkinson's office and Atkinson asked why he was threatening Louden. Alton said he was not threatening Louden, and Atkinson said "Well, you are threatening to go to the union and Labor Board." Although Alton said he had not mentioned what he intended to do, he told Atkinson, "Well, I guess you are right, go to the union and Labor Board." Atkinson then "told me if I wasn't happy there, that I should quit, and find another job." And after more discussion, Atkinson said, "Go on, get the hell out, and go to work, get the hell out of my sight."

Atkinson did not deny this discussion with Alton. Louden, who was present, was not called as a witness. Thus I find that the statements attributed to Atkinson occurred as testified to by Alton, and that Atkinson threatened him in violation of Section 8(a)(1) of the Act as alleged in paragraph 11 of the complaint.

2. The Alleged Violations of Section 8(a)(5).

a. Refusal to Respond to Request for Information and Proposal.

On July 7 an attorney on the UMWA staff wrote the Respondent enclosing a signed copy of the Respondent's Fourth Complete Proposal, with the addition of a wage reopener. Also enclosed was a request for information should the Respondent not agree to the Union's counterproposal. The Respondent's failure to answer this letter, and its failure to furnish the information, are alleged violative of Section 8(a)(5).

It has long been settled that a union is entitled to such information as is relevant to its functioning as the employees' bargaining agent. *Acme Industrial Co.,* 385 U.S. 432 (1967). In *Curtiss-Wright Corp. v. NLRB,* 347 F.2d 61 (3d Cir. 1965), the Third Circuit held that "wage and related information pertaining to employees in the bargaining unit is presumptively relevant;" however, as to other information, "such as employer profits and production figures, a union must, by reference to the circumstances of the case, as an initial matter, demonstrate more precisely the relevance of the data it desires." 347 F.2d at 69. The Board has repeatedly followed this principle. *E.g., Hondo, Incorporated d/b/a Coca-Cola Bottling Company of Chicago,* 311 NLRB 424 (1993), wherein the Board quoted from *Detroit Edison Co. v. NLRB,* 440 U.S. 301, 314-315 (1979): "A union's bare assertion that it needs information . . . does not automatically oblige the employer to supply all the information in the manner requested." 311 NLRB at 438.

The line of cases holding that during the term of a collective bargaining contract, in order to fulfill its duties the union is entitled to relevant information naturally followed from the earlier, and more narrow, decision of the Supreme Court. The Court held that where a company pleads an inability to pay a wage increase proposed during bargaining it is obligated to substantiate that claim by furnishing economic information. *NLRB v. Truitt Manufacturing Co.,* 351 U.S. 149 (1956).

But, as the Court admonished in *Truitt,* "We do not hold, however, that in every case in which economic inability is raised as an argument against increased wages it automatically follows that the employees are entitled to substantiating evidence. Each case must turn upon its particular facts. The inquiry must always be whether or not under the circumstances of the particular case the statutory obligation to bargain in good faith has been met." 351 U.S. at 153-4.

A company's duty to furnish information is an aspect of its duty to bargain. It is not an independent obligation. Thus, just because a union may ask for information does necessarily imply that a company's failure to furnish it is unlawful. The requested information must be relevant within the context of the union/employer relationship. *C-B Buick, Inc. v. NLRB,* 506 F.2d 1086 (3d Cir. 1974).

In general, where there is a collective bargaining agreement, a union is entitled to information concerning wage and related matters without needing to prove relevance. However, as to other information, the union must establish relevance before a finding that the company's refusal to furnish it was unlawful. In the bargaining context, economic information must be furnished on request if the company pleads and inability to pay a proposed wage or benefit increase, but not if the company simply contends it does not "want" to pay. *E.g., ConAgra,* 321 NLRB 944 (1996). As to other matters, the union would have to establish "that it had a legitimate need for the requested information for ongoing contract negotiations . . . ." *Hondo, Incorporated d/b/a Coca-Cola Bottling Company of Chicago, supra.,* at 428.

Here the Union sought not only wage and related information, but also information on a comprehensive range of subjects such as: contracting and subcontracting; distribution of employees by age, ethnic origin and sex; compliance programs under various state and federal statutes such Title VII of the Civil Rights Act; workforce turnover; costs relating to unemployment, workers' compensation insurance, and training; costs of health and life insurance; and data concerning the purchase and sale of coal.

There is no evidence in the record to support the relevance of any of this information for purposes of collective bargaining or representing unit employees. Only a few of the specific requests are directed to articles in the Respondent's Fourth Complete Proposal and to a majority of those, the parties agreed to the article during bargaining in 1994, as indicated on that document. Even the wage an related information requests have no apparent relevance to this situation inasmuch as the employees instructed the Union to agree to the Proposal in November 1996.

In short, since the Union agreed to the Respondent's Fourth Complete Proposal, I am at a loss to understand how the information requested could be helpful in formulating bargaining demands or in evaluating the Respondent's position. Nor are there any grievance issues to which any of the information requested might be relevant.

In effect, the General Counsel argues that the Respondent's failure to respond to the information request was a *per se* violation of the Act. While the Board and Courts have been quite liberal in concluding that unions are generally entitled to some of the kinds of information here requested, they have never held an employer's obligation to be automatic. There must be a showing that the request was made in good faith and would further the purposes of collective bargaining. I therefore conclude that the Union did not establish, and the General Counsel did not prove, that any of the information requested was needed for ongoing collective bargaining or to administer the Union's collective bargaining relationship with the Respondent. The Respondent did not violate Section 8(a)(5) by refusing to furnish the information requested on July 7, 1997.

Nor do I find that the Respondent violated Section 8(a)(5) by not responding to the letter until August 18. Given the history of this bargaining, and particularly the Union's failure to contact the Respondent for months at a time, a six week delay does not seem inordinate, or be the basis of an independent 8(a)(5) violation. By the time the Respondent's counsel did answer the letter, the entire bargaining unit had signed a petition to cease having the Union represent them.

b. The July 1997 Layoffs.

It is alleged that on July 21 the Respondent laid off six employees and changed the shifts of four others; on July 25 laid off Charles Owens and Rich Starkey and on July 29 laid off Alton. The General Counsel does not contend that the layoffs were unlawful (except of that of Alton). It is alleged that by failing to notify and bargain with the Union the Respondent thereby violated Section 8(a)(5). I agree.

The Respondent maintains that the layoffs were caused by economic conditions and that it contacted the affected employees and gave them an opportunity to work part-time or be laid off. They choose the latter, on grounds that they would thereby make more in unemployment compensation. And the Respondent seems to suggest that the Union was notified inasmuch as Alton was told of the forthcoming layoffs and he was a representative of the Union; that is, he was designated as the "walk around" person to accompany state and federal inspectors. While this is a position of some responsibility on behalf of employees, I am not persuaded that notice to Alton would suffice as notice to officials of the Union with whom the Respondent had been dealing. Accordingly, I conclude that the layoffs in July were consummated by the Respondent without giving the Union an opportunity to bargain about them or their effects.

Even though the Respondent's decision to lay off employees was for economic reasons, it was nevertheless a mandatory subject of bargaining and by failing to notify and bargain with the Union it violated Section 8(a)(5). *Lapeer Foundry & Machine,* 289 NLRB 952 (1988).

c. Withdrawal of Recognition.

On August 18, the Respondent's then counsel answered the Union's July 7 letter by stating that it had received a petition signed by all of the bargaining unit employees (but not those on layoff) to the effect they no longer wanted the Union to represent them. Thus "as of this date Linn Mining will not continue to recognize the UMWA as the bargaining representative for its employees, or bargain with the UMWA concerning the bargaining unit."

Following a final negotiation session in September 1996, Ayers met with employees in November 1996 at which time he presented the Respondent's proposal. The Union had wanted a wage rate of $13.50 per hour and the Respondent had proposed $12.50. The feedback he got from employees was: "They weren't happy with the proposal, but they felt that they could live with it, if they could get and agreement signed."

Ayers testified that he then decided to write asking for another negotiation session (in order to negotiate a wage reopener after one year). This he did on January 20. Steptoe did not respond and Ayers wrote again about six months later. He did not explain why he was asking for another bargaining session since the employees had agreed to the Respondent's proposal as presented to them in November. Ayers did testify that during this period (November 1996 to June 1997) he talked with only three unit employees. Steptoe did not respond to the June 3 letter, hence the letter of July 7.

Given the Union's less than aggressive pursuit of a contract for this bargaining unit, absent independent unfair labor practices I would conclude that withdrawal of recognition based on the employees petition of August 15 was lawful. However, since I find that the petition was tainted, at least to some extent, by the Respondent's, unfair labor practices, particularly the refusal to notify and bargain with the Union about the layoffs. I therefore conclude that the withdrawal was violative of Section 8(a)(5). *Lee Lumber & Building Materials,* 322 NLRB 175 (1996).

d. Unilateral Grant of Benefits.

At the outset of the hearing, Counsel for the General Counsel offered an amendment to the complaint alleging that in August the Respondent unilaterally granted employees two weeks vacation and five paid holidays. The Respondent objected on grounds that the amendment introduced a new element to the proceeding, which I took to mean that the amendment was barred by Section 10(b). Since the Charge herein alleged violations of Section 8(a)(5) since July 7, 1997, I conclude that the amendment is closely related to the charge and is not time-barred. *Redd-I, Inc.,* 290 NLRB 1115 (1988).

On the merits, shortly after the Respondent withdrew recognition from the Union, Atkinson met with employees. According to the undisputed testimony of Keith, Atkinson said "that the union was out now, that he would give us some vacation time, which he wasn't allowed to do before, and some holidays, together, I believe it equaled 15 days, eight vacation days, and seven holidays. . . ." Keith further testified that they in fact began receiving vacation and holiday pay, whereas they had received none before, though seven basic holidays and one to three weeks vacation were in the Respondent's Fourth Complete Proposal.

Inasmuch as I have concluded that the Respondent unlawfully withdrew recognition, the unilateral grants of benefits was clearly violative of Section 8(a)(5). *E.g., Hoover Enterprises, Inc., d/b/a Chambersburg County Market,* 293 NLRB 654 (1989).

e. Subcontracting All Bargaining Unit Work.

It is alleged, and admitted, that on March 1, 1998, the Respondent subcontracted all its work to Archie Corporation and laid off all its employees (who became employees of Archie). Only the Respondent's failure to notify and bargain with the Union is alleged violative of the Act -- not the decision or fact of subcontracting.

The issue is whether the Respondent's decision to subcontract its entire operation was a mandatory subject of bargaining, and on this the record is sparse. However, from the testimony of Terring Weaver, a CPA who does accounting and tax work for the Respondent, it appears that the Respondent was substantially in arrears on its workers' compensation policy account. Indeed, the Respondent had been in default since February 1, 1996, and had been issued a "Notice of Delinquency." This is undisputed. In fact both Ayers and Atkinson testified that at a September 1996 bargaining session Atkinson asked the Union for help on this issue. Neither testified what, if anything, the Union responded. However, the Respondent continued in default until it ceased operations on March 1, 1998. In evidence is a "Notice of Default and Termination of Coverage" dated April 10, 1998.

The General Counsel argues that since the Respondent had been in default for more than two years and did not in fact receive the notice of termination until five weeks after subcontracting the workers' compensation default would not excuse notice and bargaining with the Union. I disagree. The fact that the Respondent was probably operating unlawfully under the laws of West Virginia and could have continued to do so does not mean the decision to subcontract was a mandatory subject of bargaining.

It is undisputed that the Respondent was in default and under the laws of West Virginia could not have employees. Thus, according to the Respondent, the decision was made to subcontract the work. The General Counsel maintains that the Respondent could have borrowed money to pay the arrearages or bargained with the Union for employees to take a pay cut. Thus ceasing business was not the only option.

While such may be true, it seems clear that the Respondent's decision to cease operations amounted to the type of change in scope and direction of the business not hinging on labor costs which the Supreme Court has held not to be a mandatory subject of bargaining. *First National Maintenance Corp. v. NLRB,* 452 U.S. 666 (1981).

I conclude that the precipitating cause of the decision to subcontract was the Respondent's workers' compensation default and such was not a cost factor within the Union's control and therefore was not suitable for resolution through collective bargaining. *Fibreboard Corp. v. NLRB,* 379 U.S. 203 (1964). And, even if this was a subject which the Union might help resolve, it was given the opportunity and did not do so when the issue was brought to negotiations by the Respondent.

Accordingly, I conclude that the Respondent was not required to notify and bargain with the Union concerning its decision to cease operations, subcontract its work and layoff its employees.

3. The Alleged Violation of Section 8(a)(3).

The layoff of Alton on July 29, is additionally alleged to have been motivated by his union activity and therefore also violative of Section 8(a)(3). Atkinson testified that Alton was "the union representative." Further, Atkinson confronted Alton about Alton's purported threats to Mine Superintendent Louden to take the shift change issue to the Union and the Labor Board, which was clearly protected activity. During the course of this confrontation, Atkinson told Alton to quit if he did not like working for the Respondent.

Alton's known union activity along with the threat by Atkinson shortly before the layoff establish a prima facie case that his layoff was unlawfully motivated. It thus was incumbent on the Respondent to prove that Alton would have been laid off when he was regardless of these facts. *Wright Line, a Division of Wright Line, Inc.,* 251 NLRB 1083 (1980), enfd. 662 F.2d 889 (1st. Cir. 1981), cert. denied 455 U.S. 989 (1982).

I conclude that the Respondent did not meet its burden. Basically, the Respondent contends that Alton was selected for layoff instead of employees more junior in seniority because he was not certified to be on the mine rescue team and did not qualify as a continuous miner. The Respondent did not, however, show that these qualification were necessary for Alton's continued employment or that those more junior who continued to work had such qualifications. I therefore conclude that argument presented by the Respondent in this regard was bogus.

IV. REMEDY

Having concluded that the Respondent has engaged in certain unfair labor practices, I shall recommend that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act, including making whole those employees unlawfully laid off until the time the Respondent ceased operations in accordance with the formula set forth in *F.W. Woolworth Co.,* 90 NLRB 289 (1950) and *New Horizons for the Retarded, 283 NLRB 1173 (1987).*

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended [2]

ORDER

The Respondent, Linn Mining Company, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

a. Threatening employees with termination for engaging in activities protected by Section 7 of the Act.

[2]If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

b. Withdrawing recognition and refusing to recognize and bargain with United Mine Workers of America, District 31, AFL-CIO as the duly designated representative of its employees in the appropriate bargaining unit.

c. Laying off employees, without notice to and bargaining with the Union.

d. Laying off employees because they engaged in activity protected by Section 7 of the Act.

e. Unilaterally granting employees benefits.

c. In any like or related manner, interfering with, restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action designed to effectuate the policies of the Act:

a. Should the Respondent resume operations, on request, recognize and bargain with the Union as the exclusive representative of its employees in the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

> All full-time and regular part-time production and maintenance employees employed by the Respondent at its deep mine facility located near Johnstown, West Virginia; excluding office clerical employees, independent truck drivers and guards, professional employees and supervisors as defined in the Act.

b. Make whole all employees laid off on July 21, 25 and 29, 1997, including Charles Owens, Rich Starkey and Arthur Alton, for any loss of wages and other benefits from the date of their respective layoff until March 1, 1998, in accordance with the formula set forth in the Remedy section above.

c. Within 14 days after service by Region 6, post at its Johnstown, West Virginia office copies of the attached notice marked "Appendix."[3] Copies of the notice, on forms provided by the Regional Director for Region 6 after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

d. Within 21 days after service by the Region, file with the Regional Director in a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

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[3] If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

Dated, Washington, D.C.
September 8, 1998

James L. Rose
Administrative Law Judge

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

WE WILL NOT threaten employees with termination for engaging in activities protected by Section 7 of the Act.

WE WILL NOT withdraw recognition and refuse to recognize and bargain with United Mine Workers of America, District 31, AFL-CIO as the duly designated representative of our employees in the following appropriate bargaining unit:

> All full-time and regular part-time production and maintenance employees employed by the Respondent at our deep mine facility located near Johnstown, West Virginia; excluding office clerical employees, independent truck drivers and guards, professional employees and supervisors as defined in the Act.

WE WILL NOT lay off employees, without notice to and bargaining with the Union.

WE WILL NOT lay off employees because they engaged in activity protected by Section 7 of the Act.

WE WILL NOT unilaterally grant employees benefits.

WE WILL NOT in any like or related manner, interfere with, restrain or coerce employees in the exercise of the rights guaranteed them by Section 7 of the Act.

_____
LINN MINING COMPANY

Dated _____ By _____
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered with any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 1000 Liberty Avenue, Room 1501, Pittsburgh, Pennsylvania 15222–4173, Telephone 412–644–2969.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended [4]

ORDER

Dated, Washington, D.C.
1996

_____
James L. Rose
Administrative Law Judge

[4]If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.